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PROJECT NO. 51840

**RULEMAKING TO ESTABLISH § PUBLIC UTILITY COMMISSION
ELECTRIC WEATHERIZATION §
STANDARDS § OF TEXAS**

**STEERING COMMITTEE OF CITIES SERVED BY ONCOR'S COMMENTS
REGARDING PROPOSAL FOR PUBLICATION FOR NEW 16 TAC § 25.55**

The Steering Committee of Cities Served by Oncor (OCSC) submits these Comments to the Public Utility Commission of Texas (Commission) regarding the Proposal for Publication for new 16 Texas Administrative Code (TAC) § 25.55, as approved at the August 26, 2021 work session. On August 26, 2021, the Commission issued the Proposal for Publication for new 16 TAC § 25.55, relating to weather emergency preparedness, to implement weather emergency preparedness measures for generation entities and transmission service providers in the Electric Reliability Council of Texas (ERCOT) power region, as required by Senate Bill 3 (SB 3), 87th Legislative Session (Regular Session).¹ The Proposal for Publication was issued following an initial Request for Comments² and a Discussion Draft.³ The Commission requested comments from interested persons be filed by September 16, 2021. Therefore, these Comments are timely filed.

I. EXECUTIVE SUMMARY

As requested,⁴ OCSC provides the following executive summary at the outset of its comments:

- OCSC generally supports the new proposed 16 TAC § 25.55, which will benefit customers by putting standards in place, requiring immediate actions to prevent a repeat failure of cold weather critical components experienced in February 2021.

¹ Proposal for Publication for New 16 TAC § 25.55 as Approved at the August 26, 2021 Work Session (Aug. 26, 2021) (Proposal for Publication).

² Commission Staff's Request for Comments (Jun. 9, 2021). OCSC filed comments in response. *See* OCSC's Comments Regarding Project No. 51840, Rulemaking Establishing Electric Weatherization Standards (Jun. 23, 2021).

³ Commission Staff's Discussion Draft and Questions for Comment (Jul. 19, 2021). OCSC filed comments in response. *See* OCSC's Comments Regarding Discussion Draft and Questions for Comment in Project No. 51840, Rulemaking Establishing Electric Weatherization Standards (Jul. 30, 2021).

⁴ "Commission staff strongly encourages commenters to include a bulleted executive summary to assist commission staff in reviewing the filed comments in a timely fashion." Proposal for Publication at 5 (Aug. 26, 2021).

- The rule should explicitly reference the winter weather readiness actions identified in the Quanta Technology Report on Extreme Weather Preparedness Best Practices that the Commission reports it is requiring generators to implement. Likewise, the rule should explicitly reference the key recommendations contained in the 2011 Report on Outages and Curtailments During the Southwest Cold Weather Event on February 1-5, 2011, jointly prepared by the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation, that the Commission reports it is requiring transmission service providers to implement.
- The rule should include an explanation of the “phase two” process, including the scope of the ERCOT weather study and how the ERCOT weather study will be used as an input to developing the weather reliability standards. Generators and transmission service providers can best plan for and implement the appropriate scope of weatherization only if the second phase is understood. The Commission should strive to provide transparency and certainty to the market.
- The rule should include summer weather emergency preparations as well as winter weather emergency preparations to comply with SB 3, Section 13 (PURA § 35.0021), which requires the Commission to implement “weather emergency preparedness” measures.
- The term “winter weather conditions,” as used in proposed 16 TAC §§ 25.55(c)(1)(A) and (f)(1)(A), should be defined to provide a clear standard for what qualifies as a “winter weather condition.”
- Additional language should be added to proposed 16 TAC §§ 25.55(c)(1)(D) and (f)(1)(D) to provide clarity and compliance standards regarding the provision of training on winter weather preparations to operational personnel.
- The Commission should clarify the purpose and use of the information required in proposed 16 TAC §§ 25.55(c)(1)(E) and (f)(1)(H) regarding minimum design operating limitations.
- The winter weather readiness reports submitted by generators and transmission service providers under proposed 16 TAC §§ 25.55(c)(2) and (f)(2), and ERCOT’s summary report of the winter weather readiness reports under proposed 16 TAC §§ 25.55(c)(4) and (f)(3), should be filed publicly to ensure transparency into weatherization actions and progress.

- OCSC supports proposed 16 TAC §§ 25.55(d) and (g), regarding inspections for a generation entity and inspections for a transmission service provider, but recommends the language be modified to require on-site, physical inspections by qualified, full-time ERCOT inspectors, or inspectors employed by another qualified entity selected by the Commission and ERCOT, conducted in accordance with a mandatory inspection schedule.
- To achieve its new responsibilities with regard to weatherization and inspections, ERCOT must be fully supported by the Commission and its new Board of Directors, and should ensure full transparency in the creation and development of new Nodal Protocols needed to implement the Commission's new 16 TAC § 25.55.
- The Commission should require generators to demonstrate that their gas supply is weatherized to a set of specific and definable standards, and should coordinate with the Railroad Commission of Texas on any aspects of rulemaking concerning weatherization for gas facilities.

II. COMMENTS

OCSC's interest in the matters at issue in this Project arise from its dual role as both electric consumers in their own right, procuring power in the deregulated retail market for crucial public functions such as fire, police, and water service, and as advocates on behalf of the retail customers who reside or do business within their corporate limits. Winter Storm Uri represented one of the most significant challenges to the ERCOT market since the market opened, and put tremendous strain on the ability of municipalities and other political subdivisions to provide for public health, safety, and welfare. Cities provide essential first-responder services and critical public services that were hampered, and even incapacitated, by the power outages resulting from Winter Storm Uri. In short, the ERCOT system failed customers. As a result, OCSC's concerns and experiences during Winter Storm Uri prompt its support for the establishment of weather emergency preparedness reliability standards as proposed in Commission Staff's Proposal for Publication. The new proposed 16 TAC § 25.55 will benefit customers by putting standards in place, requiring immediate actions to prevent a repeat failure of cold weather critical components experienced in February 2021. While OCSC believes Commission Staff's Proposal for Publication is a step in the right direction, OCSC offers several recommendations, below.

The preamble to Commission Staff’s Proposal for Publication contemplates two phases in the development of “robust weather emergency preparedness reliability standards.”⁵ Proposed 16 TAC § 25.55 represents phase one, which requires generators “to implement the winter weather readiness actions identified in the 2012 Quanta Technology Report on Extreme Weather Preparedness Best Practices”⁶ (Quanta Report), and requires transmission service providers “to implement key recommendations contained in the 2011 Report on Outages and Curtailments During the Southwest Cold Weather Event on February 1-5, 2011, jointly prepared by the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation”⁷ (FERC/NERC Report). While OCSC does not object to the Commission’s goal in setting these requirements, it believes the Proposal for Publication lacks the clarity needed to ensure compliance with these standards. Neither the Quanta Report nor the FERC/NERC Report are referenced in the proposed rule. The “winter weather readiness actions” and “key recommendations” contained in the Quanta Report and FERC/NERC Report are similarly not referenced, cited to, or included in the proposed rule in any way. It is unclear how generators and transmission service providers are expected to implement the recommendations identified in the reports, when the reports and their recommendations are not mentioned in the rule. Ensuring that generators and transmission service providers comply with the recommendations and actions identified in the reports is likewise not contemplated by the proposed rule, which is hugely problematic. The Commission should be explicit in delineating the Quanta Report requirements and the FERC/NERC Report requirements and where those requirements are found in the rule. The Commission must connect the dots between the standards outlined in the reports and the requirements for generators and transmission service providers prescribed in the proposed rule. OCSC wants reliability as promised by the weatherization rule, but is concerned that the Commission is not actually holding generators and transmission service providers to the standards outlined in the Quanta Report and the FERC/NERC Report without greater clarity of those requirements in the rule language. The lack of clarity and specificity with regard to the standards will lead to confusion, delay, waste of time and resources, and importantly, compliance risk.

⁵ Proposal for Publication at 1 (Aug. 26, 2021).

⁶ *Id.*

⁷ *Id.* at 1-2.

Phase two, as discussed in the preamble to Commission Staff’s Proposal for Publication, “will be informed by a robust weather study that is currently being conducted by ERCOT in consultation with the Office of the Texas State Climatologist.”⁸ OCSC acknowledges that the Commission has expressed that phase two will be developed at a later date in a future project, but recommends that the Commission provide an explanation of the stage two process in the current rulemaking and Proposal for Publication. For instance, what is the expected scope of the weather study, and how will the Commission incorporate the weather study into phase two of the rulemaking? It is unclear how the ERCOT weather study is used as an input to developing the weather reliability standards. Further, the proposed language indicates that generators and transmission service providers must meet some compliance deadlines before the weather study has been incorporated into the weather reliability standards. As currently proposed, the Commission is directing generators and transmission service providers to weatherize to a standard immediately, without regard to what the future standard might entail. The more detail that the Commission can provide on the two-stage process at the outset, the better that generators and transmission service providers can plan for and implement the appropriate scope of weatherization, without incurring waste and unnecessary and duplicative costs. OCSC’s member cities need the reliability promised by the Legislature and the Commission with as much certainty as possible, and without unnecessary excess costs.

OCSC is also concerned about the lack of summer weather preparation contemplated by Commission Staff’s Proposal for Publication. OCSC acknowledges that the Commission has expressed that summer weather preparation may be developed at a later date in phase two,⁹ but recommends the Commission address future summer weather preparation in the current rulemaking and Proposal for Publication. SB 3, Section 13 (PURA § 35.0021) refers to “weather emergencies,” not “winter weather emergency preparations,” as contemplated by the current Proposal for Publication. The Commission should not limit the current rulemaking to “winter weather emergency preparations,” but should include weatherization measures for all “weather emergencies,” as intended by the Legislature and as directed by SB 3. Winter and summer weather emergency preparedness should be complementarily prescribed in the current rulemaking.

⁸ *Id.* at 2.

⁹ The phase two process contemplated by the Commission “will consist of a more comprehensive, year-round set of weather emergency preparedness reliability standards.” Proposal for Publication at 2 (Aug. 26, 2021).

OCSC recommends that the term “winter weather conditions,” as used in proposed 16 TAC §§ 25.55(c)(1)(A), (f)(1)(A), be defined in the definitions section, 16 TAC §§ 25.55(b). 16 TAC §§ 25.55(c)(1)(A) and (f)(1)(A) discuss the weather emergency preparedness reliability standards for generators and transmission service providers and require those entities to complete winter weather emergency preparations “necessary to ensure the sustained operation of all cold weather critical components during winter weather conditions.”¹⁰ The term “cold weather critical components” is defined with particularity as “[a]ny component that is susceptible to freezing, the occurrence of which is likely to lead to unit trip, derate, or failure to start.”¹¹ However, the term “winter weather conditions” is not similarly defined, which may result in the Commission receiving any and all manners and degrees of preparedness from generators and transmission service providers. The Commission should provide a standard for what qualifies as a “winter weather condition” to give as much clarity as possible, and to avoid generators and transmission service providers interpreting the term in any number of ways. In defining the term, the Commission should consider the target winter weather conditions it expects generators and transmission service providers to be prepared for. It should model the meteorological facts from Winter Storm Uri, which should be the scenario the Commission is targeting to prepare for. In addition, the Commission should consider including regional variations in the definition, as different regions across the state are susceptible to different “winter weather conditions” and thus should be prepared to varying standards of weatherization.

OCSC recommends additional language be added to proposed 16 TAC §§ 25.55(c)(1)(D) and (f)(1)(D) to provide clarity. These sections provide for the “[p]rovision of training on winter weather preparations to operational personnel” for both generators and transmission service providers.¹² However, there are no compliance standards in place. OCSC has the same concerns as stated above, that the lack of clarity and specificity will leave the rule section open for broad interpretation. A rule that is open for broad interpretation and lacks compliance standards risks being ineffective, and OCSC believes the Commission’s intent is to develop robust weatherization standards that ensure the prevention of widespread outages in the event of the next Winter Storm Uri.

¹⁰ Proposal for Publication at 8 and 13 (Aug. 26, 2021).

¹¹ *Id.* at 7.

¹² Proposal for Publication at 9 and 13 (Aug. 26, 2021).

The Commission should also provide clarifying language in proposed 16 TAC §§ 25.55(c)(1)(E) and (f)(1)(H). These provisions require generators and transmission service providers to determine “minimum design temperatures, minimum operating temperatures, and other operating limitations.”¹³ However, the purpose of establishing minimum design operating limitations, as found in proposed 16 TAC §§ 25.55(c)(1)(E) and (f)(1)(H), is unclear. OCSC is unsure if the determination is intended to be based on manufacturing specs, or based on the operations experience of each specific unit. In addition, the information does not appear to be used in any meaningful way in the proposed rule. OCSC again reiterates the need for specific standards, so that both generators and transmission service providers have clear direction, and that the industry as a whole has clear and measurable standards to rely on.

OCSC also recommends that the winter weather readiness reports submitted by generators and transmission service providers should be made publicly available for review. Under proposed 16 TAC §§ 25.55(c)(2) and (f)(2), generators and transmission service providers “must submit to the [C]ommission and ERCOT, on a form prescribed by ERCOT and developed in consultation with [C]ommission[S]taff, a winter weather readiness report.”¹⁴ OCSC recommends that these winter weather readiness reports, along with any other weatherization filings of the generators and transmission service providers, should be public documents. If the winter weather readiness reports or other weatherization filings contain fundamentally protected information, competitively sensitive information, or critical infrastructure protection (CIP) information, the Commission should direct that a publicly accessible summary of the information be made available. In addition, ERCOT’s summary report of the winter weather readiness reports should also be made publicly available. Under proposed 16 TAC §§ 25.55(c)(4) and (f)(3), “ERCOT must file with the [C]ommission a summary report of the winter weather readiness reports.”¹⁵ To ensure transparency, the ERCOT winter weather readiness report summaries should also be made available to the public for review. Requiring the public disclosure of such reports is no different than the Commission’s action this summer to publicly disclose outage information.¹⁶ The

¹³ *Id.* at 9 and 14.

¹⁴ *Id.*

¹⁵ *Id.* at 10 and 15.

¹⁶ *Calendar Year 2021 – Open Meeting Agenda Items without an Associated Control Number*, Docket No. 51617, Chairman Lake Memorandum re: June 24, 2021 Open Meeting – Agenda Item No. 28 (Jun. 23, 2021).

information contained in both the winter weather readiness reports submitted by generators and transmission service providers and in ERCOT's winter weather readiness report summaries is critical for the public to access and review, and transparency into weatherization actions and progress is paramount.

OCSC supports proposed 16 TAC §§ 25.55(d) and (g), regarding inspections for a generation entity and inspections for a transmission service provider, but offers several recommendations. First, the sections should be retitled "On-site inspections for a generation entity" and "On-site inspections for a transmission service provider," respectively. The language in each provision should then be tailored to require qualified ERCOT individuals, or inspectors employed by another qualified entity selected by the Commission and ERCOT, being *physically present* at a generation site or transmission facility and *physically inspecting* the winter preparedness of that plant. ERCOT should be required, through these rule provisions, to present its plan for the hiring and training of full-time inspectors designated to weatherization inspections of generators and transmission service providers, and should be required to establish a mandatory inspection schedule it adheres to. Without these protections, OCSC is concerned that ERCOT's inspections of generators and transmission service providers for compliance with weatherization requirements will not provide necessary protection to customers.

Further, OCSC is concerned about whether ERCOT possesses the resources to properly conduct inspections of generators and transmission service providers without distracting from ERCOT's other critical functions. The Proposal for Publication creates a significant responsibility placed on ERCOT that has never before existed, which requires both additional expertise and resources at ERCOT. In order to achieve its new responsibilities with regard to weatherization and inspections, ERCOT must be fully supported by the Commission and its new Board of Directors. ERCOT should also ensure full transparency in the creation and development of new Nodal Protocols needed to implement the Commission's new 16 TAC § 25.55.

Lastly, OCSC would highlight that a resilient generation sector cannot exist without a resilient gas sector, and the loss of controllable generation due to fuel supply issues during Winter Storm Uri should be acknowledged. While OCSC is aware that the Commission lacks the authority to regulate gas pipelines and gas supply, the Commission does have authority, through SB 3, to regulate generation entities. OCSC believes there are steps the Commission could take in this rulemaking to offer enhanced protections in this area. For instance, the Commission could

require generators to demonstrate that their gas supply is weatherized to a set of specific and definable standards. The Commission should coordinate with the Railroad Commission of Texas on any aspects of rulemaking concerning weatherization for gas facilities. OCSC would encourage the Commission to collaborate with the Railroad Commission of Texas to address the interdependence between natural gas supply and electric power generation. As stated previously, creating adequate weatherization standards for electric generation service providers will not assure generation reliability in weather emergency conditions without the supply of natural gas to those generating facilities.¹⁷ The Commission should closely coordinate with the Railroad Commission of Texas in the development of the rulemakings addressing weatherization standards for the natural gas and electric industries.

OCSC continues to highlight several points, from a broader industry-wide perspective, that the Commission should keep in mind as it develops the new 16 TAC § 25.55 to implement weather emergency preparedness reliability standards for generation entities and transmission service providers in the ERCOT power region. First, one purpose of the competitive market is to shift financial risks from customers to market participants. The Commission should therefore refrain from enacting rules that unduly shift financial risks back to customers. In addition to cost containment, grid reliability and the maintenance of critical customer services are of top priority to OCSC.

III. CONCLUSION

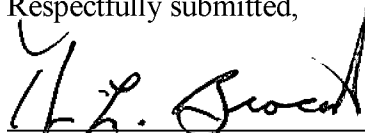
OCSC generally supports the Proposal for Publication and the Commission's intent to develop weather emergency preparedness reliability standards for both generators and transmission service providers. However, OCSC advocates for certain additions and modifications to the Proposal for Publication, outlined above, to ensure there are definable standards in place and compliance with the standards that result in actual and realized improvements and change across the industry. However, without these additions and modifications, OCSC is concerned that ERCOT cannot ensure compliance, and the reliability requirements proposed in the Proposal for Publication will not necessarily provide the level of reliability intended by the Commission and needed by OCSC member cities and their citizens.

¹⁷ OCSC's Comments Regarding Project No. 51840, Rulemaking Establishing Electric Weatherization Standards at 2 (Jun. 23, 2021).

OCSC looks forward to the development of weather emergency preparedness reliability standards and in assisting in the rulemaking process in any way it can. OCSC appreciates the opportunity to submit these Comments to the Commission.

Dated: September 16, 2021

Respectfully submitted,



LLOYD GOSSELINK

ROCHELLE & TOWNSEND, P.C.

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

THOMAS L. BROCATO

tbrocato@lglawfirm.com

State Bar No. 03039030

TAYLOR P. DENISON

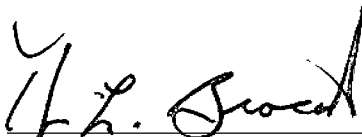
tdenison@lglawfirm.com

State Bar No. 24116344

ATTORNEYS FOR STEERING COMMITTEE OF
CITIES SERVED BY ONCOR

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 16, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.



THOMAS L. BROCATO